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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10-015,858	11/02/2001	Mark Alan Burazin	14,923B	7501

23556 7590 07/22/2003

KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER

HUG, ERIC J

ART UNIT PAPER NUMBER

1731

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/015,858

**Applicant(s)**

BURAZIN ET AL.

**Examiner**

Eric Hug

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-98 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-98 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference signs mentioned in the description: 27 (absorbent tissue product), 145 (primary pattern), 64 (circular primary pattern).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "44a" and "44b" have both been used to designate the same upper warp in Figure 8.

Figure 9 is objected to because it fails to show the contrast between the white floats and the gray intermediate knuckles and shutes as described in the specification on page 27. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 91 is objected to because of the following informalities:

The phrase "The woven sculpted fabric of Claim 50" should instead read  
--The method of Claim 50--. Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 1-38 and 42-49 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 62-99 and 103-110 of copending Application No. 10/015,837. Claims 50-87 and 91-98 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 111-148 and 152-159 of copending Application No. 10/015,837. Although the conflicting claims are not identical, they are not patentably distinct from each other. The claims of the instant application are directed to a method of making tissue using a woven sculpted fabric having strands extending in a first-direction and a second-direction. The claims of copending Application No. 10/015,837 are directed to a method of making tissue using a woven sculpted fabric having strands extending in a cross-machine direction and a machine direction. Since a woven fabric must have strands extending in a cross-machine direction, a machine direction, or

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at an angle thereto, the orientation of the strands is an obvious feature, thus the claims are not patentably distinct.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

2. Claims 39-41 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 100-102 of copending Application No. 10/015,837. Claims 88-90 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 149-151 of copending Application No. 10/015,837. Although the conflicting claims are not identical, they are not patentably distinct from each other, because the tissues that are formed in the two applications have the same structure. The claims of the instant application are directed to a tissue made using a woven sculpted fabric having strands extending in a first-direction and a second-direction. The claims of copending Application No. 10/015,837 are directed to a tissue made using a woven sculpted fabric having strands extending in a cross-machine direction and a machine direction. Since a woven fabric must have strands extending in a cross-machine direction, a machine direction, or at an angle thereto, the orientation of the strands is an obvious feature, thus the claims are not patentably distinct.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

*Allowable Subject Matter*

The prior art does not disclose a method of making a tissue product by transferring a formed fibrous web onto a woven fabric comprised of strands oriented in one direction which form elevated floats and depressed sinkers, and comprised of at least two background regions and a transition region, whereby in the transition region a first elevated float in a first background region becomes a second depressed sinker in a second background region and a first depressed sinker in the first background region become a second elevated float in the second background region, and also whereby the elevated floats and depressed sinkers run parallel in an alternating fashion so that the floats are positioned between adjacent sinkers and the sinkers are positioned between adjacent floats. Similarly, the prior art does not disclose or suggest a method of making tissue as described above except that in the transition region a first elevated float in a first background region becomes a second elevated float in a second background region and a first depressed sinker in the first background region become a second depressed sinker in the second background region. The prior art does not disclose such a weave pattern for a papermaking fabric.

The prior art also does not disclose or suggest a tissue product made using the claimed fabric. The claimed fabric imparts a surface structure and texture that distinguishes the claimed tissue from prior art tissues, while also providing a tissue with uniform density instead of a tissue with compacted regions.

Prior art fabrics for making tissue webs may comprise a base fabric with a textured pattern woven therein (e.g. Chiu, US 5,429,686), or comprise weave patterns that provide for three-dimensional pockets (e.g. Quigley et al., US 5,520,225), or comprise weave patterns

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having elevated knuckles at the surface (e.g. Kaufman et al., US 5,832,692), or comprise resinous structures elevated from the surface of a base fabric (e.g. Trokhan, various patents). Only Hay et al (see citation below) discloses making a woven fabric with long floats and textured patterns without using additional yarns or materials and without forming pockets that affect the tissue density. These prior art fabrics result in tissue papers with different structures than that of the present invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kloeckener (US 2,086,505) discloses a woven fabric for making tissue having extra warp threads woven as floats to form a pattern.

Thompson (US 4,423,755) discloses a woven papermaker's fabric having long floats at the paper-contacting surface that are interrupted only at the binding points of the weave.

Borel (US 4,739,803) discloses a woven papermaking fabric having alternating transverse threads reaching to the paper-contacting surface.

Quigley (US 5,713,397) discloses a through air drying fabric for tissue having machine direction yarns arranged side-by-side and raised as floats to form a pattern.

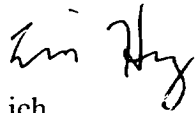
Hay et al (US 6,237,644) discloses a woven tissue forming fabric that imparts a pattern, whereby the pattern is formed in the fabric without using additional yarns or other processing steps. The pattern is formed with adjacent floats of different length.

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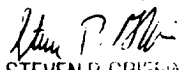
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 703 308-1980. The examiner can normally be reached on Monday through Friday, 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872-9310 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0651.

  
jch

July 15, 2003

  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700